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Attorneys for Defendant UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO

## IN THE UNITED STATES DISTRICT COURT

## FOR THE DISTRICT OF HAWAII

vs.  OPPOSITION TO PLAINTIFF'S  MOTION IN LIMINE TO  UNITED PUBLIC WORKERS,  AFSCME LOCAL 646, AFL-CIO,  Defendant,  Vs.  OPPOSITION TO PLAINTIFF'S  MOTION IN LIMINE TO  EXCLUDE EVIDENCE OF  PLAINTIFF'S PAST SEXUAL  BEHAVIOR; CERTIFICATE OF  SERVICE  Vs.  OGARY W. RODRIGUES,  OPPOSITION TO PLAINTIFF'S	JEANNE ENDO,	)	CIVIL NO. CV03-00563 LEK	
vs.  ) WORKERS' MEMORANDUM IN US.  ) OPPOSITION TO PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF PLAINTIFF'S PAST SEXUAL BEHAVIOR; CERTIFICATE OF SERVICE  vs.  ) OPPOSITION TO PLAINTIFF'S SERVICE OF EXCLUDE EVIDENCE OF PLAINTIFF'S PAST SEXUAL SERVICE OF SERVICE  Defendant,  vs.  ) TRIAL DATE: May 13, 2008		)		
vs.  OPPOSITION TO PLAINTIFF'S  MOTION IN LIMINE TO  UNITED PUBLIC WORKERS,  AFSCME LOCAL 646, AFL-CIO,  Defendant,  Vs.  OPPOSITION TO PLAINTIFF'S  MOTION IN LIMINE TO  EXCLUDE EVIDENCE OF  PLAINTIFF'S PAST SEXUAL  SERVICE  Vs.  ORANGE OF PLAINTIFF'S  PAST SEXUAL  SERVICE  OF PLAINTIFF'S  PLAINTIFF'S  AFSCME LOCAL 646, AFL-CIO,  TRIAL DATE: May 13, 2008	Plaintiff,	)	DEFENDANT U	NITED PUBLIC
) MOTION IN LIMINE TO UNITED PUBLIC WORKERS, DEXCLUDE EVIDENCE OF AFSCME LOCAL 646, AFL-CIO, Defendant, Defend		)	WORKERS' MEMORANDUM IN	
UNITED PUBLIC WORKERS, AFSCME LOCAL 646, AFL-CIO, Defendant, Vs.  GARY W. RODRIGUES,  TRIAL DATE:  May 13, 2008	VS.	)	OPPOSITION TO PLAINTIFF'S	
AFSCME LOCAL 646, AFL-CIO,  Defendant,  Vs.  GARY W. RODRIGUES,  DEFAINTIFF'S PAST SEXUAL  BEHAVIOR; CERTIFICATE OF  SERVICE  TRIAL DATE: May 13, 2008		)	MOTION IN LIMINE TO	
Defendant,  vs.  (GARY W. RODRIGUES,  )  BEHAVIOR; CERTIFICATE OF SERVICE  )  (TRIAL DATE: May 13, 2008)	UNITED PUBLIC WORKERS,	)	EXCLUDE EVIDENCE OF	
Defendant,  vs. ) SERVICE )  vs. ) GARY W. RODRIGUES, ) TRIAL DATE: May 13, 2008	AFSCME LOCAL 646, AFL-CIO,	)	PLAINTIFF'S PAST SEXUAL	
vs. ) GARY W. RODRIGUES, ) TRIAL DATE: May 13, 2008		)	BEHAVIOR; CERTIFICATE OF	
GARY W. RODRIGUES, ) TRIAL DATE: May 13, 2008	Defendant,		SERVICE	
GARY W. RODRIGUES, ) TRIAL DATE: May 13, 2008		)		
) TRIAL DATE: May 13, 2008	VS.	)		
) TRIAL DATE: May 13, 2008		)		
<i>,</i> , , , , , , , , , , , , , , , , , ,	GARY W. RODRIGUES,	)		
Third-Party Defendant. )		)	TRIAL DATE:	May 13, 2008
	Third-Party Defendant.	)		•
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## DEFENDANT UNITED PUBLIC WORKERS' MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF PLAINTIFF'S PAST SEXUAL BEHAVIOR

Defendant United Public Workers, AFSCME Local 646, AFL-CIO ("UPW") requests that the Court deny PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF PLAINTIFF'S PAST SEXUAL BEHAVIOR, filed April 22, 2008, for the reasons set forth below:

Plaintiff testified that when she had sex with Gary Rodrigues in 1998, she explained to him that she had hickies on her breast from her then-boyfriend, and Mr. Rodrigues was upset and unhappy. (Endo deposition at p. 88, line 15 to p. 89, line 25). This testimony supports UPW's defense that the Endo/Rodrigues relationship was voluntary and consensual and not "unwelcomed." This testimony also supports that one of Plaintiff's motives for not complaining to others about her sexual relations with Mr. Rodrigues was to keep the consensual relationship concealed from her then-boyfriend, not because she feared retaliation. Under these circumstances, this specific evidence is relevant to UPW's defense and would not be offered merely to embarrass Plaintiff or to portray her as promiscuous. This evidence is limited in scope and UPW's defense will be unfairly prejudiced if this specific evidence is excluded.

DATED: Honolulu, Hawaii, April 29, 2008.

/s/ Charles A. Price

JAMES E. T. KOSHIBA CHARLES A. PRICE Attorneys for Defendant UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO